

STATE OF MICHIGAN
COURT OF APPEALS

AMERICAN DISPLAY, INC. and SUNSHINE
SIGN CORP., d/b/a SIGN MEDIA,

UNPUBLISHED
July 31, 2003

Plaintiffs-Appellants,

v

TEXAS CHARTER TOWNSHIP,

No. 238694
Kalamazoo Circuit Court
LC No. 01-000138-CH

Defendant-Appellee.

Before: Zahra, P.J., and Talbot and Owens, JJ.

MEMORANDUM.

Plaintiffs appeal as of right from a circuit court order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Michigan Distribution Centers Partners (MDC) owns certain property along I-94 in Texas Township. American Display entered into three leases with Robert Dykstra, a purported agent of MDC, to erect billboards on MDC's property. American Display then entered into a joint development agreement with Sunshine to develop the lease locations. Sunshine then paid Dykstra \$6,000 for two of the leases and erected two billboards. The township cited MDC for ordinance violations because no one had obtained a building permit and site plan approval before erecting the signs. MDC then dismantled the billboards. Plaintiffs later filed this action challenging the township's right to enforce the ordinance. The circuit court ruled that plaintiffs' leasehold interest in the property did not give them the right to challenge the ordinance and dismissed plaintiffs' lawsuit pursuant to MCR 2.116(C)(8).

Generally, a trial court's ruling on a motion for summary disposition is reviewed de novo. *Beaudrie v Henderson*, 465 Mich 124, 129; 631 NW2d 308 (2001). The Court added:

A motion for summary disposition brought under MCR 2.116(C)(8) tests the legal sufficiency of the complaint on the basis of the pleadings alone. The purpose of such a motion is to determine whether the plaintiff has stated a claim upon which relief can be granted. The motion should be granted if no factual development could possibly justify recovery. [*Id.* at 129-130.]

Here, the gravamen of plaintiffs' lawsuit is that they have suffered damages based on defendant's citation of MDC for zoning violations. However, any damages plaintiffs' suffered were not directly caused by defendant, but were caused by MDC's actions in physically destroying the billboards. To the extent that MDC's actions constituted a breach of the lease agreement, plaintiffs' cause of action is against MDC for breach of contract or a similar action. In addition, to the extent that defendant's actions were improper as a matter of law, plaintiffs have not suffered any *direct* consequences. See *Metroweb Corp v Lake Co*, 474 NE2d 900, 903 (Ill App, 1985). The instant matter does not involve a challenge to the denial of a building permit, nor does it involve a challenge to a citation issued to plaintiffs. Accordingly, we are not persuaded that the trial court erred as a matter of law in concluding that plaintiffs' complaint failed to state a claim upon which relief could be granted. *Beaudrie, supra* at 129-130.

Affirmed.

/s/ Brian K. Zahra
/s/ Michael J. Talbot
/s/ Donald S. Owens